

Order

Michigan Supreme Court
Lansing, Michigan

November 22, 2010

Marilyn Kelly,
Chief Justice

140336 & (21)

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 140336
COA: 293833
Wayne CC: 05-005425

MARIO TIMOTHY JOHNSON,
Defendant-Appellant.

By order of July 15, 2010, the prosecuting attorney was directed to answer the application for leave to appeal the November 23, 2009 order of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Wayne Circuit Court and we REMAND this case to the trial court for resentencing in light of *People v Hendrick*, 472 Mich 555 (2005). On remand, the trial court shall sentence the defendant within the appropriate sentencing guidelines range, or articulate on the record a substantial and compelling reason for departing from the sentencing guidelines range in accordance with *People v Babcock*, 469 Mich 247 (2003).



s1115

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 22, 2010

Corbin R. Davis

Clerk